

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

JOHN BRIAN CLARK and MARATHON
CAPITAL LLC,

Plaintiffs,

-against-

ENERGY VAULT HOLDINGS, INC.,

Defendant.

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ORDER DISMISSING
COMPLAINT FOR LACK OF
SUBJECT-MATTER
JURISDICTION

24 Civ. 5870 (AKH)

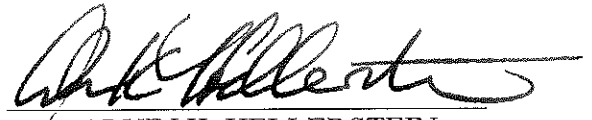
ALVIN K. HELLERSTEIN, U.S.D.J.:

Plaintiffs John Brian Clark and Marathon Capital LLC, a Nevada resident and a Florida limited liability corporation (“LLC”), respectively, sue Defendant Energy Vault Holdings, Inc., a Delaware corporation, headquartered in California. *See* Compl. at ¶¶ 1-3. The alleged jurisdictional basis is diversity of citizenship, pursuant to 28 U.S.C. § 1332. *See* Compl. at ¶ 4. LLC are deemed to be citizens of all the states in which their constituents are citizens. *See Handelsman v. Bedford Vill. Assocs. Ltd. P’ship*, 213 F.3d 48, 51 (2d Cir. 2000); *see also Americold Realty Trust v. Conagra Foods, Inc.*, 136 S. Ct. 1012, 1014 (2016) (“While humans and corporations can assert their own citizenship, other entities take the citizenship of their members.”). Here, the Complaint has failed to identify each of the members of Marathon Capital LLC and allege their respective citizenships. *See Coward v. Amtrak*, 24 Civ. 7562, 2024 WL 4805861 (E.D.N.Y. Nov. 13, 2024) (dismissing complaint that merely alleged citizenship of the managing member of the LLC—as opposed to all of its members—for lack of jurisdiction).

The complaint is dismissed, with leave to replead an adequate basis of diverse citizenship
no later than 21 days from the entry of this Order.

SO ORDERED.

Dated: December 4, 2024
New York, New York


ALVIN K. HELLERSTEIN
United States District Judge